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Larry M. Weil, Planning Director  
Steven Zimmer, Senior Planner  
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission  
September 10, 2012 at 7:00 P.M.  
West Fargo City Hall

Members Present: Tom Kiewel  
Edward Sheeley  
Connie Carlsrud  
Frank Lenzmeier  
Terry Potter  
Tom McDougall  
Jerry Beck  
LeRoy Johnson

Others Present: Larry Weil, Steven Zimmer, Lisa Sankey, Dustin Scott, Mike Thorstad, Duane Hanson, Karen Huber, Jim Brownlee, Zerek Kroll, Mike Bernath, Emily Welker, Mike Tomasko, Lisa Dirk, Peggy Stibbe, Jim Swenberger, Jill Brand, Ruth Swain, Loren Thoennes, Jerry Palmer, Brent Kuehne, Pete Diemert, Scott Simley, Amy Mattison, David Schultz

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the August 13, 2012 meeting minutes as printed. Commissioner McDougall seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-40 Charleswood 29<sup>th</sup> Addition, a subdivision, rezoning from A: Agricultural to PUD: Planned Unit Development and Land Use Plan Amendment from Office Park to General Commercial, property in the SE¼ of Section 17, T139N, R49W, City of West Fargo, North Dakota.

Chair Lenzmeier asked if there was any reason they couldn't have gotten letters from the property owners sooner. Steven indicated that they had just received the letters as well and hadn't had an opportunity to review them either.

He then reviewed the following information from the staff report:

The property is located to the southwest of the corner of 9<sup>th</sup> Street East and 19<sup>th</sup> Avenue E. The applicant proposes to rezone the property from Agricultural to Planned Unit Development to allow for a hotel complex with commercial pad sites and a convenience store. The City's Land Use Plan depicts the area as Office Park. The hotel use is consistent with City Plans and Ordinances; however, the convenience store and future commercial (retail) uses are considered general commercial and would require a Land Use Plan Amendment.

This property at the corner of 9<sup>th</sup> Street and I-94 has been designated as Office Park since the adoption of the 2000 Comprehensive Plan. At this time it was thought to be a good transition/buffer for the residential built and to-be-built in the Charleswood Development. In 2002 a study was done that determined an interchange was warranted at the 9<sup>th</sup> Street I-94 intersection. The interchange was constructed in 2009.

In July of 2004, Charleswood 20<sup>th</sup> Addition was platted and zoned PUD to accommodate varied forms of single family including reduced setback homes (Custom Villas), zero lot line single family dwellings (Court Yard Villas), and townhouses (Town Home Villas) within a private street setting with a land use of Low Density Residential for single family and townhouse lots. In July of 2005, Charleswood 22<sup>nd</sup> Addition was developed with 13 additional lots along a private drive. Charleswood 21<sup>st</sup> Addition which consists of twin homes and 4-unit townhouses was platted and zoned PUD in August of 2004. These properties which were platted and developed as residential were shown as low density residential in the 2000 Comprehensive Plan.

In 2008 Charleswood 25<sup>th</sup> was platted and zoned C-OP: Commercial Office Park, to accommodate the development of Titan Machinery. This property is located directly to the west of this proposed subdivision, across Beaton Drive. At the time Charleswood 25<sup>th</sup> was approved, a TIF district was created for the lots located within CW 25<sup>th</sup> and conditionally approved for the property proposed as CW 29<sup>th</sup>. The condition the city placed on this property was that a hotel and conference center needed to be developed in order for the TIF benefits to be extended to this property (proposed CW 29<sup>th</sup>).

The applicant has submitted a Preliminary Plat, Area Plan and Concept Development plan. The area plan shows office commercial to the southwest and single family and townhouses to the northwest and Cheney Middle School to the north. The Preliminary Plat shows six lots for development. The lot size varies between about 1 to about 5.5 acres.

The Concept Development Plan shows commercial/office being developed on Lots 1, 5 & 6 along interstate frontage, a convenience store on Lot 4 in the corner of 9<sup>th</sup> Street and 19<sup>th</sup> Ave E, with two hotels and a convention center on Lot 2 in the northwest corner of the property. Lot 3 is shown as parking.

The development will be served by private drives with access to 19<sup>th</sup> Ave E on the north and to Beaton Drive on the west side of the property. The private drives need to be depicted on the plat as an access/utility easement to accommodate cross access to internal properties and public utilities.

The land use plan amendment is required for the commercial uses along interstate and 9<sup>th</sup> Street that may be developed as retail commercial and a convenience store. These uses are not permitted uses in the C-OP zoning district. Staff feels that the requested Land Use Plan amendment is a semi-lateral change and should not have any negative affect on the area or development and should be approved.

A major pipeline runs along the north side of Lot 1 so an easement is shown. The pipeline crosses the Interstate.

Property owners within 150' were notified as well as City Departments, utility companies, and other agencies. We have received multiple calls and letters from individuals who have concerns about this application. Last week Larry and Dustin met with the residents that live in Charleswood 20<sup>th</sup> and 22<sup>nd</sup> who are concerned about privacy, traffic, noise and buffering between this proposed use and their properties across Beaton Drive.

We have not received a landscaping plan or scaled site plans at this point so are not able to address all of their concerns. The landscaping and buffering concerns will be addressed in the future when the developer submits the Detailed Development Plans as required by the PUD process. These plans will come back to the city for review and staff will be able to better address the citizen's concerns at that point.

It is recommended to conditionally approve the proposed application on the basis that it is consistent with City plans and ordinances. The conditions of approval are as follows:

1. Detailed Development Plans are received.
2. The Final Plat is received with any necessary easements.
3. An Attorney Title Opinion is received.
4. A certificate is received showing taxes being current.
5. A drainage plan is received and approved by the City Engineer.
6. A mailbox plan is received and approved by the Post Office.
7. A Subdivision Improvement Agreement is received.

Mike Tomasko, Evergreen Estates HOA President, referred to a letter he submitted on behalf of the homeowners and questioned the development plans. They asked about the land use when they purchased their homes and based on the Comp Plan they were led to believe it would be an office park, possibly a strip mall. He stated they are concerned with a 4-story structure in such close proximity to their homes and issues with garbage and delivery trucks, utility equipment (AC) along the back side of the building. He stated concern with lighting and signage and hoped soft lighting would be used. He trusts there will be proper buffering contemplated.

Mr. Tomasko was also concerned with nighttime events such as weddings and conferences with alcohol. Would Beaton Drive be able to handle the increased traffic? With the close proximity to the school there are already issues with traffic being backed up along 19<sup>th</sup> Avenue and suggested a stoplight at that location. He also stated concern with the entrance and

exit driveways being placed across from their entrance. They don't mean to be anti-development; however, many of them did their due diligence in terms of what was going to happen and didn't think that would include two, 4-story structures. The Evergreen Estates Annual Homeowners Association meeting is September 25<sup>th</sup> and commissioners are invited to attend.

Lisa Dirk, 706 Villa Parkway, stated that she lives directly across the street from the proposed hotel. With the constant reference to the Comp Plan she looked online at the Land Use Plan and meeting minutes. She indicated that office development does not include a hotel, but "limited contact with the public". The land use plan says this area is supposed to be a buffer. This makes them the buffer. They were okay with office and this is so far from that. Had they been informed at the time that this could've been a hotel conference center they would not have purchased their home here.

Peggy Stibbe, 701 Villa Parkway, indicated that she's an educator at Discovery School and they have problems with a convenience store 4 blocks away. This development is overlooking youth, a precious resource which should be protected to the best of one's ability. She indicated concerns with 9<sup>th</sup> Street traffic, motel traffic and vulnerable youth. Kids need to be protected from being enticed by inappropriate things and activities or it could be tragic. People will sit in the parking lot and stalk the students. Transients and pedophiles will stay overnight and might have alcohol to lure kids.

Mrs. Stibbe indicated she lives across the street and is concerned with peeping toms looking down on her property. Also there's a bike path in the area and this facility will entice different types of people. The safety of the youth far outweighs the tax benefit.

Jim Swenberger, 758 Villa Parkway, stated that he has family involved in the liquor/convention business. At 4 am trucks will arrive with back loaders for deliveries with that constant beep, beep, beep sounding. From 11-1 am there'll be live music then from 1-3 the roadies will be loading up the equipment. There will be open bars – will become like Las Vegas. Alcohol is a big seller during conventions. He's not against this, but this shouldn't be put in the middle of a neighborhood with schools. The comp plan never mentioned convention centers or alcohol.

Jill Brand, 762 Villa Parkway, stated that they recently moved here. This is their 2<sup>nd</sup> home for retirement. They chose this because of how well planned Charleswood was and assumed this would have an office park designation. Why does it need to be rezoned? The south corridor along Veteran's Boulevard would be better suited for this kind of development. She asked that they consider a different location, not in an established neighborhood. Access to this facility would be better served on the other side of 9<sup>th</sup> Street.

Mike Bernath, 722 Villa Parkway and President of the Villas HOA, stated that he has the authority to speak on behalf of the board. He agrees with what's been said and that there should be specific conditions placed on height of the building, lighting, signage, buffering; and that the developer consults with the Villas and Evergreen Estates with an acceptable landscape plan.

Ruth Swain, 705 Villa Parkway, stated that there are over 100 units within the Evergreen and Villa developments. She stated that within the Comp Plan Goal #2 Under Community Development and Housing states "To preserve the integrity of established residential neighborhoods by prohibiting the intrusion of incompatible uses". She indicated that she's the 2<sup>nd</sup> unit in from the site and within 125' there will be dumpsters and delivery vehicles. Sleep disturbances. If she'd have known about this, they never would've built. Real estate values will plummet and they won't be able to resell their homes. She asked that the Commission honor the Comp Plan.

City Administrator Jim Brownlee stated that about 8 years ago the developer started a conversation about a hotel conference center. He's had offers on this property; however, saved this area for it.

Mike Bernath stated that this wasn't true. When Bruce originally platted the area it was all supposed to be residential. The City forced him to change it to office park.

Larry stated that when Mr. Clapham first purchased Charleswood, he didn't own all the property. Astrups owned it in 2000. Mr. Swenberger asked if the City knew that back then, why wasn't it included in the comp plan. Larry stated that Mr. Clapham didn't control the land. Steven stated that originally his hope was that it would be residential; however, he didn't have ownership or control over the area and had no need to purchase that property at the time. Melroe or Bobcat came in with the development of an office building on property which was owned by the Beatons.

Mike Tomasko stated that he's spoken to both the developer of Evergreen Estates and several realtors and not one of them

knew of a planned hotel/motel.

Mr. Swenberger stated that some people knew, but others didn't. The communication was murky.

Mrs. Brand stated that home values may decrease and the cost to them will be detrimental no matter where it's placed. She stated concerns with traffic and the street widths and that if additional infrastructure is needed that they'd have to pay for improvements.

There were no other public comments. The hearing was closed.

Steven stated that Chapter 5 in the 2000 Comprehensive Plan does state the following in regards to areas identified as Office Park:

- Create an Office Park zoning district. The purpose of this district would be to provide areas for the development of high quality and aesthetically pleasing office, office showroom, and office warehouse uses and directly related complementary uses. This zoning district would be applied to areas identified as office park on the Land Use Plan. Office uses would be allowed as a permitted use, with hotels, motels and full service restaurants allowed as conditional uses. Figure 10 provides a conceptual sketch of how such an office park area could look when developed.

He then referred to Goal 3, Objective "c" in the 2007 Plan:

- Goal 3. To develop and maintain a cohesive and balanced land use pattern that provides areas for a variety of residential, commercial, and industrial uses within the community.
  - Objective c. To encourage the development of offices, office showroom, and other complementary uses, such as hotels and full service restaurants, along the I-94 corridor

Chair Lenzmeier asked Larry if he could address some of the concerns heard tonight.

Larry stated that typically there is more refinement with the detailed development plans which would lay out the location of the facilities to be constructed, the inside of the development.

Steven stated that they've met with the hotel representative who is very cognizant of residents' concerns. This is a high quality organization and they understand issues regarding landscaping, buffering, lighting, access... They're willing to meet the City requirements and would like to be good neighbors in terms of aesthetics and safety.

Commissioner Kiewel asked if the drawing provided in the packets was incorrect. Larry stated that it's a conceptual plan.

Commissioner Kiewel asked about access and dumpster locations. Steven stated access will most likely be across from the bus area. The school has a fenced area, so there wouldn't be direct access to the school property. The Beaton drive access would be further to the south. As for the dumpsters that's something they'll take a look at.

Larry stated that with the concept plan, if approved it is sent forward to the developer who would then create Detailed Development Plans which will back to the Planning and Zoning Commission for review. They could have simply asked for C-OP zoning and would've gotten approval for any office park uses and come back for a conditional use permit for the hotel. With the PUD it's reviewed first to see if it's compatible with the Comprehensive Plan, then come back with Detailed Development Plans. They would have to build exactly according to the submitted Detailed Development Plans and any changes would require review. So there is much more city comment and review with a Planned Unit Development.

Loren Thoennes, 1834 Evergreen Way, stated that he can't wrap his mind around the increased traffic that will occur. People will cut through the private drives.

Commissioner Kiewel asked about a traffic study. Larry stated that the City is just wrapping up the 9<sup>th</sup> Street/Veteran's Boulevard Corridor Study. It has showed that currently 19<sup>th</sup> Avenue doesn't meet warrants for a traffic signal; however, later this evening there will be a review of a proposed multiple family development on the other side of 9<sup>th</sup> Street and it might not take much to meet warrants with added development.

Jerry Palmer, 1840 Cypress Way, stated that he has the house directly across from the proposed conference center. Even with a traffic light at 9<sup>th</sup> Street and 19<sup>th</sup> Avenue there will still be a tremendous amount of traffic if there's a convention. He used to live in north Fargo near the Fargodome and feels it's very shortsighted to have something like this here.

Mike Tomasko stated that he's concerned with the proposed hotel conference center drop off being located along Beaton Drive. Steven stated that originally this was shown on the Concept Development Plans but it will most likely change. He also stated that this is going to be a conference center for business meetings, not a convention center.

Commissioner Beck asked about timeframes for approval and construction. Brent Kuehne, from Goldmark, indicated he represented the hotel. They hope to close on the land the end of the year and start construction in 2013. Chair Lenzmeier asked if there would be a willingness to meet with area property owners. Mr. Kuehne stated that the developer indicated a willingness to discuss buffering. This will be a first class facility, similar to the Hampton on South Agassiz.

Commissioner McDougall indicated concern with the parking layout. As a business owner it'd be really nice to have such a facility; however, personally he'd like to see the hotel moved closer to I-94. Mr. Kuehne stated that there's a major gas pipeline going through the lots, creating unbuildable areas.

Residents stated that they should move the pipeline.

Commissioner Beck asked about having a traffic study done to determine if Beaton Drive can handle this. Steven stated that there will be a traffic study done. There is a staff person who conducts traffic analyses and one was done when Beaton Drive was extended from Sheyenne to 9<sup>th</sup> Street. With a full build out, the roadway width and thickness should not be any issues. There will be a traffic light at 19<sup>th</sup> Avenue & 9<sup>th</sup> Street as well. In terms of pedestrian safety, the school has fencing. What's being reviewed tonight are the concept plans and if the land use is right. The rest will be hashed out with the detailed development plans.

Commissioner McDougall made a motion to approve the Concept Development Plans with the 7 conditions listed in the staff report as well as an additional condition that Staff set up a meeting with residents and developer prior to Detailed Development Plans are reviewed. Commissioner Sheeley seconded the motion. No opposition. Motion carried.

Mike Bernath asked the commission to put very specific conditions on this in terms of height. Also, they can't place buildings on the gas line, but could place parking there. He also stated that the traffic study showed a traffic light was 10 plus years out.

An unidentified gentleman stated that he is very disappointed with this decision and that this was suspect. Nobody addressed the school issue. No place in the state is a school located near a convention center.

Steven stated that a letter was received from the school acknowledging that they built in an area that will develop commercially as well as mentioning their access is along 17<sup>th</sup> Avenue.

The next item on the agenda was A12-41 Simple Lot Split of Lot 1, Block 1 of West River 1<sup>st</sup> Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property, which is located on the corner of Sheyenne Street and 37<sup>th</sup> Avenue East, is zoned for One and Two Family Dwellings and platted for twin family homes. The applicant proposes to split off a portion of Lot 1 to increase the lot width of Lot 2 to accommodate single family dwellings on each of the two lots. The proposed lot split is consistent with City plans and ordinances.

The applicant has submitted an application for a Simple Lot Split and a survey of the lots with new legal descriptions. After the split Lot 1 would be 8,123 ft<sup>2</sup> and Lot 2 would be 6,265 ft<sup>2</sup> which would exceed the minimum lot area requirements for each of the lots to accommodate single family homes. The lots would also meet the minimum lot width requirements of 50'. The simple lot split meets the conditions to not require a subdivision replat according to the subdivision ordinance.

Property owners within 150' were notified and no comments were received.

Staff recommends approval with the following condition:

1. The parcel split from Lot 1 is included within the deed for Lot 2 and verification provided to the City.

Scott Simley indicated that they want to construct two single family structures instead of a twin home.

Commissioner McDougall made a motion for approval based on staff recommendations. Commissioner Potter seconded the motion. No opposition. Motion carried.

The next item on the agenda was Detailed Development Plans - A12-33 Planned Unit Development Amendment to allow for a multiple family development on Lot 2, Block 1 of Burlington 6<sup>th</sup> Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

At their August 13, 2012 meeting the Planning and Zoning Commission denied the request on the basis the City's Land Use Plan designates the subdivision area along 9<sup>th</sup> Street East as Commercial Office Park development.

At their August 20, 2012 meeting the City Commission denied the request for a Land Use Plan amendment from Office Park to High Density Residential. As a result the applicant's application for multiple family must be confined to the area designated for multiple family. The applicant would not be required to file a subdivision replat at this point; and may proceed with submitting detailed development plans for Planning and Zoning Commission and City Commission consideration.

The applicant has submitted detailed development plans for developing two 36-unit apartment buildings within the property previously platted as Lot 2, Block 1 of Burlington Sixth Addition. The detailed development plans include the following: Site Plan; Utility Plan; Existing Conditions, Removals & Erosion Control Plan; Grading Plan; Elevation Plan; and Floor Plans.

The site plan shows the one apartment building located along Queen's Way and the other located along the I-94 off-ramp. Six garage structures are shown with single and double stall units for a total of 120 garage parking stalls. An additional 78 parking stalls in parking lots are shown for a total of 198 parking stalls which is adequate for the development.

Access to the apartment complex would be from Times Square Way to the east and from Times Square Way to the west which are private drives connecting to 19<sup>th</sup> Avenue East to the north. The west segment of the private drive will be extended from the north to the property access point. The private drives should be signed with "No Parking" signs by the developer as they are not wide enough to accommodate parking. Times Square Way was originally platted as a loop street, but the south portion was vacated with a previous plat. It will be necessary that the west segment of Times Square Way be renamed by City Commission resolution to prevent confusion for emergency responders and public. Development signage showing the building addresses should be placed at both entrances to the property.

Landscape open space for the property is slightly over 15 percent which meets the Interstate Corridor Overlay District. Landscaping for the development is shown on the site plan. The development meets the required number of plant units, though some changes will be needed as landscaping with trees and shrubs or trees and fencing are not shown along the south side of the property bordering I-94. The landscaping for this area will need to be addressed prior to final approval by the City Commission. If necessary the building will need to be moved to the north to accommodate the required landscaping and the site plan revised. Also, the east parking stall on the south side of the north building should be eliminated and/or an island provided with landscaping to meet the landscape standard.

The building elevations depict 2 ½ story apartment structures. The siding appears to include stack stone, brick, shakes and horizontal siding. Two entrances are provided, one on each long side of the building.

Floor plans show that there are 13 single bedroom units, 11 2-bedroom units, and 12 3-bedroom units in each apartment building.

It is recommended that the Detailed Development Plans for the application be conditionally approved on the basis that they are consistent with the City's Comprehensive Plan. The conditions of approval are as follows:

1. The City receives a detailed landscape plan consistent with the Interstate Corridor Overlay District and Landscape Standards. If the building needs to be moved to accommodate the required landscaping, a revised site plan is submitted.
2. The City receives an outline for the anticipated schedule and sequence of construction.
3. The City receives a PUD agreement.
4. The private drives are signed for "No Parking" by the applicant.
5. Building address signs are placed at each of the entrances to the development.

Discussion was held regarding the request for a land use plan amendment at the last meeting. Chair Lenzmeier stated that the area along 9<sup>th</sup> Street and 19<sup>th</sup> Avenue will remain commercial office park. Commissioner Kiewel indicated that they will not go into the commercial area and conceded to constructing two multiple family structures instead of three.

Commissioner Kiewel made a motion for approval based on staff recommendations. Commissioner Beck seconded the motion. No opposition. Motion carried.

Under non-agenda, Faith Lutheran Church is requesting a change in access location along 40<sup>th</sup> Avenue West.

Steven stated that during the site planning phase access to 40<sup>th</sup> Avenue was discussed. The DCC Committee (Engineering, Public Works and Planning) was under the assumption it was going to be a right-in/right-out at 330', which was acceptable. During a department head meeting a different location to the west was determined with a full shared access between Lots 20 and 21, Block 3 in Westview 1<sup>st</sup> along 40<sup>th</sup> Avenue. Site plans have been submitted showing future church additions onto Lot 21 with no parking shown along the west side of the lot.

Amy Mattison, Architect from Schultz and Associates stated they're asking for a right-in/right-out and for advisement on pavement marking signage or requiring a median on the approach. The City Engineer would design to scale.

Steven stated that he will meet with Assistant City Engineer Dustin Scott and Assistant Public Works Chris Brungardt to discuss the details.

Discussion was held regarding the style of median and future 40<sup>th</sup> Avenue design.

Architect, David Schultz from Schultz and Associates stated that when they did the detailed site review this 9 months ago, 7<sup>th</sup> Street East wasn't in the plans.

Dustin stated that there was concern from the Department Heads that if the addition didn't occur and the lot to the west was sold, there could be access concerns. Discussion was held on recording a cross easement, which would have to be done prior to the plat being recorded.

Commissioner McDougall made a motion for approval for a right in/right out access at 330' onto 40<sup>th</sup> Avenue. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier adjourned the meeting.